

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

STEPHEN K. LUMOR and EUNICE ABIEMO	:	CIVIL ACTION
	:	
	:	NO. _____
v.	:	
	:	
JOSEPH C. REYNOLDS and FEDEX FREIGHT, INC.	:	
	:	
	:	

NOTICE OF REMOVAL

TO THE HONORABLE JUDGES IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF DELAWARE:

Pursuant to 28 U.S.C. §1441, Petitioners, Joseph C. Reynolds (“Reynolds”) and FedEx Freight, Inc. (“FedEx Freight”) (hereinafter collectively “petitioners”), respectfully petition this Court to remove this action from the Superior Court of Delaware, New Castle County, to the United States District Court for the District of Delaware and in support thereof avers as follows:

1. Plaintiffs Stephen K. Lumor and Eunice Abiemo (hereinafter collectively “plaintiffs”) commenced this action against petitioners in the Superior Court of Delaware, New Castle under Civil Action B15C-05-149EMD by Summons and Complaint filed on May 19, 2015. A true and correct copy of plaintiffs’ Summons and Complaint is attached hereto as Exhibit “A.”

2. This action arises out of a motor vehicle accident that occurred on September 6, 2013 in Dover, Delaware. See Exhibit “A,” at paragraph 5.

3. Petitioner FedEx Freight was served with the Summons and Complaint on June 3, 2015.

4. As of June 29, 2015, petitioner Reynolds has not been served with the Summons and Complaint.

5. Thus, this Petition is timely since it is filed within thirty days of service of the Complaint upon petitioner FedEx Freight.

6. According to the averments in the Complaint, plaintiffs Lumor and Abiemo are residents and citizens of the State of Delaware and reside at 314 Topaz Circle, Dover, Delaware 19904. See Exhibit "A," at paragraphs 1-2.

7. Petitioner Reynolds is and was at all times material hereto a citizen of the State of Maryland, with his residence at 8033 Baptist Road, Mardela Springs, Maryland 21837.

8. Petitioner FedEx Freight, Inc. is and was at all times material hereto a foreign corporation with its headquarters and principal place of business located in Harrison, Arkansas, at 2200 Forward Drive, Harrison, Arkansas, 72601.

9. As such, petitioner Reynolds is not a citizen of the State of Delaware. Further, petitioner FedEx Freight does not have a principal place of business in the State of Delaware.

10. Therefore, diversity of citizenship exists between plaintiffs and petitioners.

11. In the Complaint, plaintiffs seek unspecified monetary damages arising from injuries related to a September 6, 2013 motor vehicle accident. See generally Exhibit "A."

12. Specifically, plaintiffs are seeking damages for personal injuries, pain and suffering and past and future medical expenses. See Exhibit "A," at paragraph 8.

13. On March 9, 2015, plaintiff Abiemo's attorney sent a letter to Becky Frederick at Sedgwick CMS, petitioners' third-party administrator, demanding \$40,000.00 plus medical bills not covered by insurance in the amount of \$11,713.00 for plaintiff Abiemo's injuries. See copy of Abiemo Demand Letter attached as Exhibit "B."

14. Further, in connection with plaintiff Abiemo's claims, petitioners have already paid out the personal injury insurance coverage limit of \$15,000.00.

15. Therefore, plaintiff Abiemo's claim alone seeks damages in excess of \$66,000.00, exclusive of interest and costs, in this matter.

16. As for plaintiff Lumor, petitioners have not yet received a demand package or medical bills from his counsel.

17. Although we are not in receipt the aforementioned information, it is reasonable to assume plaintiff's medical bills will exceed \$10,000.00 and thus, exceed the \$75,000.00 threshold, exclusive of interest and costs, for removal, especially in light of the fact that plaintiff Lumor is seeking damages for future medical expenses as well.

18. In addition, petitioners have already paid out the personal injury insurance coverage limit of \$15,000.00 for plaintiff Lumor.

19. Therefore, in sum, plaintiffs seek damages in excess of \$75,000.00, exclusive of interest and costs, in this matter.

20. This Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1332(a), because complete diversity exists between the parties and the amount in controversy in the aggregate is well in excess of \$75,000.00, exclusive of interest and costs. This action may therefore be removed to this Court pursuant to the provisions of 28 U.S.C. § 1441.

21. Promptly after filing of this Petition, petitioners are providing notice of this Notice of Removal to all plaintiffs and the Superior Court of Delaware, New Castle County.

22. Pursuant to 28 U.S.C. § 1446(a), all process, pleadings and orders served upon petitioners in this action have been attached hereto. See Exhibit "C."

WHEREFORE, petitioners Joseph Reynolds and FedEx Freight, Inc. pray that the above-captioned matter now pending in the Superior Court of Delaware, New Castle County be removed to the United States District Court for the District of Delaware.

Respectfully submitted,

***Weber Gallagher Simpson
Stapleton Fires & Newby, LLP***

BY: /s/Mary E. Sherlock
Mary E. Sherlock, Esquire, ID #: 2228
19 S. State Street, Suite 100
Dover, DE 19901
302-346-6377
Attorney for Defendants

DATED: June 30, 2015